

AMENDED IN ASSEMBLY JUNE 12, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 612

Introduced by Senator Leno

February 22, 2013

An act to amend, repeal, and add Section 1946.7 of the Civil Code, and to amend Section 1161.3 of the Code of Civil Procedure, relating to residential tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 612, as amended, Leno. Residential tenancy: victims of human trafficking and elder or dependent adult abuse.

Existing law authorizes a tenant to notify the landlord in writing that he or she or a household member, as defined, was a victim of an act of domestic violence, sexual assault, stalking, or abuse of an elder or dependent adult and that the tenant intends to terminate the tenancy. Existing law requires that the tenant attach to the notice to terminate either a copy of a temporary restraining order or protective order that protects the tenant or household member from further domestic violence, sexual assault, or abuse of an elder or dependent adult or a police report, as specified. Existing law permits the tenant to quit the premises after notification and limits the tenant's obligation for payment of rent, as specified. Existing law requires the notice to terminate the tenancy to be given within 180 days of the date the order was issued or the report was made, or as specified.

Existing law requires, by January 1, 2014, the Judicial Council to develop or revise a form that may be used to assert, on the basis of these provisions, an affirmative defense to an unlawful detainer action.

This bill would expand these provisions to authorize a tenant to notify the landlord that he or she or a household member is a victim of human trafficking and the tenant intends to terminate the tenancy, as specified. Until January 1, 2016, the bill would include among the supporting documents that a tenant may attach to the notice to terminate a tenancy ~~specified documentation from that includes specified statements by the tenant and by a health practitioner, a domestic violence counselor, a sexual assault counselor, or a human trafficking caseworker to indicate~~ that the tenant is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult. The bill would make various conforming changes.

This bill would prohibit a landlord from disclosing any information provided by a tenant under these provisions to a 3rd party unless the disclosure is consented to in writing or is required by law or order of the court, except as specified.

This bill would extend, until July 1, 2014, the deadline for the Judicial Council to develop or revise the above-described form for an affirmative defense to an unlawful detainer action.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1946.7 of the Civil Code is amended to
- 2 read:
- 3 1946.7. (a) A tenant may notify the landlord that he or she or
- 4 a household member was a victim of an act that constitutes an act
- 5 of domestic violence as defined in Section 6211 of the Family
- 6 Code, sexual assault as defined in Section 261, 261.5, 262, 286,
- 7 288a, or 289 of the Penal Code, stalking as defined in Section
- 8 1708.7, human trafficking as defined in Section 236.1 of the Penal
- 9 Code, or abuse of an elder or a dependent adult as defined in
- 10 Section 15610.07 of the Welfare and Institutions Code, and that
- 11 the tenant intends to terminate the tenancy.
- 12 (b) A notice to terminate a tenancy under this section shall be
- 13 in writing, with one of the following attached to the notice:

(1) A copy of a temporary restraining order, emergency protective order, or protective order lawfully issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2 of the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from further domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(3) (A) Documentation from a qualified third party based on information received by that third party while acting in his or her professional capacity; *to indicate* that the tenant or household member is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse. ~~Documentation from a qualified third party shall include all of the following:~~

~~(A) The name, address, and telephone number of the qualified third party.~~

~~(B) The licensing body or professional affiliation of the qualified third party.~~

~~(C) The license number of the qualified third party or, if the qualified third party is not licensed, the name of his or her immediate supervisor written on the letterhead stationery of the qualified third party's state-recognized employer.~~

~~(D) If known and considered safe to provide, the name and physical description of the abuser.~~

~~(B) The documentation shall contain, in substantially the same form, the following:~~

*Tenant Statement and Qualified Third Party Statement
under Civil Code Section 1946.7*

Part I. Statement By Tenant

1
2 I, [insert name of tenant], state as follows:

3
4 I, or a member of my household, have been a victim of:
5 [insert one or more of the following: domestic violence, sexual assault, stalking,
6 human trafficking, elder abuse, or dependent adult abuse.]

7
8 The most recent incident(s) happened on or about:
9 [insert date or dates.]

10
11 The incident(s) was/were committed by the following person(s), with these
12 physical description(s), if known and safe to provide:
13 [if known and safe to provide, insert name(s) and physical description(s).]

14
15 _____
16 (signature of tenant) (date)

17
18 *Part II. Qualified Third Party Statement*

19
20 I, [insert name of qualified third party], state as follows:

21
22 My business address and phone number are:
23 [insert business address and phone number.]

24
25 Check and complete one of the following:

26 ____ I meet the requirements for a sexual assault counselor provided in Section
27 1035.2 of the Evidence Code and I am either engaged in an office, hospital,
28 institution, or center commonly known as a rape crisis center described in that
29 section or employed by an organization providing the programs specified in
30 Section 13835.2 of the Penal Code.

31 ____ I meet the requirements for a domestic violence counselor provided in
32 Section 1037.1 of the Evidence Code and I am employed, whether financially
33 compensated or not, by a domestic violence victim service organization, as
34 defined in that section.

35 ____ I meet the requirements for a human trafficking caseworker provided in
36 Section 1038.2 of the Evidence Code and I am employed, whether financially
37 compensated or not, by an organization that provides programs specified in
38 Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of
39 the Penal Code.

40 ____ I am licensed by the State of California as a:

1 *[insert one of the following: physician and surgeon, osteopathic physician and*
2 *surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social*
3 *worker, licensed marriage and family therapist, or licensed professional clinical*
4 *counselor.] and I am licensed by, and my license number is:*
5 *[insert name of state licensing entity and license number.]*
6

7 *The person who signed the Statement By Tenant above stated to me that he or*
8 *she, or a member of his or her household, is a victim of:*
9 *[insert one or more of the following: domestic violence, sexual assault, stalking,*
10 *human trafficking, elder abuse, or dependent adult abuse.]*
11 *The person further stated to me the incident(s) occurred on or about the date(s)*
12 *stated above.*
13

14
15 *I understand that the person who made the Statement By Tenant may use this*
16 *document as a basis for terminating a lease with the person's landlord.*
17

18
19 _____
20 *(signature of qualified third party) (date)*
21

22 *(C) The documentation may be signed by a person who meets*
23 *the requirements for a sexual assault counselor, domestic violence*
24 *counselor, or a human trafficking caseworker only if the*
25 *documentation displays the letterhead of the office, hospital,*
26 *institution, center, or organization, as appropriate, that engages*
27 *or employs, whether financially compensated or not, this counselor*
28 *or caseworker.*

29 *(c) The notice to terminate the tenancy shall be given within*
30 *180 days of the date that any order described in paragraph (1) of*
31 *subdivision (b) was issued, within 180 days of the date that any*
32 *written report described in paragraph (2) of subdivision (b) was*
33 *made, or within the time period described in Section 1946.*

34 *(d) If notice to terminate the tenancy is provided to the landlord*
35 *under this section, the tenant shall be responsible for payment of*
36 *rent for 30 days following the giving of the notice, or within the*
37 *appropriate period as described in Section 1946, and thereafter*
38 *shall be released from any rent payment obligation under the rental*
39 *agreement without penalty. Existing law governing the security*
40 *deposit shall apply.*

(e) If within the 30 days following the giving of the notice under this section the tenant quits the premises and the premises are rented to another party, the rent due on the premises for that 30-day period shall be prorated. Existing law governing the security deposit shall apply.

(f) Nothing in this section relieves a tenant, other than the tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult and members of that tenant's household, from their obligations under the rental agreement.

(g) (1) "Household member," as used in this section, means a member of the tenant's family who lives in the same household as the tenant.

(2) "Qualified third party," as used in this section, means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code.

(3) "Health practitioner," as used in this section, means a physician and surgeon, *osteopathic physician and surgeon*, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(h) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless the disclosure satisfies any one of the following:

(A) The tenant consents in writing to the disclosure.

(B) The disclosure is required by law or order of the court.

(2) A landlord's communication to a qualified third party who provides documentation under paragraph (3) of subdivision (b) to verify the contents of that documentation is not disclosure for purposes of this subdivision.

(i) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2013~~, 2016, deletes or extends that date.

SEC. 2. Section 1946.7 is added to the Civil Code, to read:

1946.7. (a) A tenant may notify the landlord that he or she or a household member was a victim of an act that constitutes an act

1 of domestic violence as defined in Section 6211 of the Family
2 Code, sexual assault as defined in Section 261, 261.5, 262, 286,
3 288a, or 289 of the Penal Code, stalking as defined in Section
4 1708.7, human trafficking as defined in Section 236.1 of the Penal
5 Code, or abuse of an elder or a dependent adult as defined in
6 Section 15610.07 of the Welfare and Institutions Code, and that
7 the tenant intends to terminate the tenancy.

8 (b) A notice to terminate a tenancy under this section shall be
9 in writing, with one of the following attached to the notice:

10 (1) A copy of a temporary restraining order, emergency
11 protective order, or protective order lawfully issued pursuant to
12 Part 3 (commencing with Section 6240) or Part 4 (commencing
13 with Section 6300) of Division 10 of the Family Code, Section
14 136.2 of the Penal Code, Section 527.6 of the Code of Civil
15 Procedure, or Section 213.5 or 15657.03 of the Welfare and
16 Institutions Code that protects the tenant or household member
17 from further domestic violence, sexual assault, stalking, human
18 trafficking, or abuse of an elder or a dependent adult.

19 (2) A copy of a written report by a peace officer employed by
20 a state or local law enforcement agency acting in his or her official
21 capacity stating that the tenant or household member has filed a
22 report alleging that he or she or the household member is a victim
23 of domestic violence, sexual assault, stalking, human trafficking,
24 or abuse of an elder or a dependent adult.

25 (c) The notice to terminate the tenancy shall be given within
26 180 days of the date that any order described in paragraph (1) of
27 subdivision (b) was issued, within 180 days of the date that any
28 written report described in paragraph (2) of subdivision (b) was
29 made, or within the time period described in Section 1946.

30 (d) If notice to terminate the tenancy is provided to the landlord
31 under this section, the tenant shall be responsible for payment of
32 rent for 30 days following the giving of the notice, or within the
33 appropriate period as described in Section 1946, and thereafter
34 shall be released from any rent payment obligation under the rental
35 agreement without penalty. Existing law governing the security
36 deposit shall apply.

37 (e) If within the 30 days following the giving of the notice under
38 this section the tenant quits the premises and the premises are
39 rented to another party, the rent due on the premises for that 30-day

1 period shall be prorated. Existing law governing the security
2 deposit shall apply.

3 (f) Nothing in this section relieves a tenant, other than the tenant
4 who is, or who has a household member who is, a victim of
5 domestic violence, sexual assault, stalking, human trafficking, or
6 abuse of an elder or a dependent adult and members of that tenant's
7 household, from their obligations under the rental agreement.

8 (g) "Household member" as used in this section means a member
9 of the tenant's family who lives in the same household as the
10 tenant.

11 (h) A landlord shall not disclose any information provided by
12 a tenant under this section to a third party unless the disclosure
13 satisfies any one of the following:

14 (1) The tenant consents in writing to the disclosure.

15 (2) The disclosure is required by law or order of the court.

16 (i) This section shall be operative January 1, 2016.

17 SEC. 3. Section 1161.3 of the Code of Civil Procedure is
18 amended to read:

19 1161.3. (a) Except as provided in subdivision (b), a landlord
20 shall not terminate a tenancy or fail to renew a tenancy based upon
21 an act or acts against a tenant or a tenant's household member that
22 constitute domestic violence as defined in Section 6211 of the
23 Family Code, sexual assault as defined in Section 1219, stalking
24 as defined in Section 1708.7 of the Civil Code or Section 646.9
25 of the Penal Code, human trafficking as defined in Section 236.1
26 of the Penal Code, or abuse of an elder or a dependent adult as
27 defined in Section 15610.07 of the Welfare and Institutions Code,
28 if both of the following apply:

29 (1) The act or acts of domestic violence, sexual assault, stalking,
30 human trafficking, or abuse of an elder or a dependent adult have
31 been documented by one of the following:

32 (A) A temporary restraining order, emergency protective order,
33 or protective order lawfully issued within the last 180 days pursuant
34 to Section 527.6, Part 3 (commencing with Section 6240), Part 4
35 (commencing with Section 6300), or Part 5 (commencing with
36 Section 6400) of Division 10 of the Family Code, Section 136.2
37 of the Penal Code, or Section 213.5 or 15657.03 of the Welfare
38 and Institutions Code that protects the tenant or household member
39 from domestic violence, sexual assault, stalking, human trafficking,
40 or abuse of an elder or a dependent adult.

1 (B) A copy of a written report, written within the last 180 days,
2 by a peace officer employed by a state or local law enforcement
3 agency acting in his or her official capacity, stating that the tenant
4 or household member has filed a report alleging that he or she or
5 the household member is a victim of domestic violence, sexual
6 assault, stalking, human trafficking, or abuse of an elder or a
7 dependent adult.

8 (2) The person against whom the protection order has been
9 issued or who was named in the police report of the act or acts of
10 domestic violence, sexual assault, stalking, human trafficking, or
11 abuse of an elder or dependent adult is not a tenant of the same
12 dwelling unit as the tenant or household member.

13 (b) A landlord may terminate or decline to renew a tenancy after
14 the tenant has availed himself or herself of the protections afforded
15 by subdivision (a) if both of the following apply:

16 (1) Either of the following:

17 (A) The tenant allows the person against whom the protection
18 order has been issued or who was named in the police report of
19 the act or acts of domestic violence, sexual assault, stalking, human
20 trafficking, or abuse of an elder or a dependent adult to visit the
21 property.

22 (B) The landlord reasonably believes that the presence of the
23 person against whom the protection order has been issued or who
24 was named in the police report of the act or acts of domestic
25 violence, sexual assault, stalking, human trafficking, or abuse of
26 an elder or dependent adult poses a physical threat to other tenants,
27 guests, invitees, or licensees, or to a tenant's right to quiet
28 possession pursuant to Section 1927 of the Civil Code.

29 (2) The landlord previously gave at least three days' notice to
30 the tenant to correct a violation of paragraph (1).

31 (c) Notwithstanding any provision in the lease to the contrary,
32 the landlord shall not be liable to any other tenants for any action
33 that arises due to the landlord's compliance with this section.

34 (d) For the purposes of this section, "tenant" means tenant,
35 subtenant, lessee, or sublessee.

36 (e) The Judicial Council shall, on or before ~~January~~ *July* 1, 2014,
37 develop a new form or revise an existing form that may be used
38 by a party to assert in the responsive pleading the grounds set forth

1 in this section as an affirmative defense to an unlawful detainer
2 action.

O